

### REMARKS

This responds to the Office Action mailed on March 2, 2006, and the references cited therewith.

Claims 1, 5, 6, 14, 26, 32, 36, 63, and 67 are amended, no claims are canceled, and no claims are added; as a result, claims 1, 5-32, 36-63, and 67 are now pending in this application.

#### §103 Rejection of the Claims

The following is a list of rejections in the Office Action:

- Claims 1, 6, 7, 10-18, 22, 27, 28, 32, 37, 38, 41-49, 53, 58, 59, 63 and 67 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy et al. (U.S. 6,317,792; hereinafter Mundy) in view of Nieminen et al. (U.S. 6,578,075; hereinafter Nieminen).
- Claims 5 and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy and Nieminen as applied respectively to claim 1 and 32 above, and further in view of Horstmann (U.S. 6,055,503; hereinafter Horstmann).
- Claims 8 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy and Nieminen as applied respectively to claim 7 and 38 above, and further in view of Ginzboorg et al. (U.S. 6,240,091; hereinafter Ginzboorg).
- Claims 9 and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy, Nieminen and Ginzboorg as applied respectively to claim 8 and 39 above, and further in view of "Official Notice."
- Claims 19 and 50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy and Nieminen as applied respectively to claim 1 and 32 above, and further in view of Carolan et al. (U.S. 6,753,887; hereinafter Carolan).
- Claims 20 and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy and Nieminen as applied respectively to claim 1 and 32 above, and further in view of Bleuse et al. (U.S. 6,324,579; hereinafter Bleuse).
- Claims 21 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy and Nieminen as applied respectively to claim 1 and 32 above, and further in view of Sitaraman et al. (U.S. 6,212,561; hereinafter Sitaraman).

- Claims 23 and 54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy and Nieminen as applied respectively to claim 1 and 32 above, and further in view of Corn (U.S. 5,564,017; hereinafter Corn).
- Claims 24-26 and 55-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy and Nieminen as applied respectively to claim 1 and 32 above, and further in view of MacFarlane et al. (U.S. 6,125,354; hereinafter MacFarlane).
- Claims 29, 30, 60, and 61 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy and Nieminen as applied respectively to claim 1 and 32 above, and further in view of Reeder (U.S. 5,852,812; hereinafter Reeder).
- Claims 31 and 62 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mundy, Nieminen and Reeder as applied respectively to claim 29 and 60 above, and further in view of "Official Notice."

Applicants submit that each rejection noted above fails to establish a *prima facie* case of obviousness. The Examiner has the burden of establishing a *prima facie* case of obviousness under 35 U.S.C. § 103. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). To do that the Examiner must show that some objective teaching in the prior art or some knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.* In order for the Examiner to establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *M.P.E.P.* § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

#### *Discussion of Claim 1*

Applicants submit that Mundy does not teach or suggest each and every feature of claim 1. The Office Action asserts that Mundy teaches "receiving at a customization system, the

customization information pertaining to the customized network connection application, (Fig 2, items 22 and 24, col 7, lines 41-49).” However, the Office Action does not point to a passage that teaches or suggests claim 1’s “receiving, at a customization system, customization information pertaining to the customized network connection application, wherein the customization is received **from a customer** of the customization system.” (Emphasis added.) The cited passage<sup>1</sup> states:

[The] dedicated server 18 compiles a usage profile 22 characterizing the use of client system 10. Usage profile 22 can include any desired and observable characteristics of the usage pattern of client system 10. For instance, usage profile 22 can record the total number of hours of access by client system 10 and the time of day and day of week of access. In one embodiment, usage profiles 22 are compiled by assigning scores to or otherwise tabulating the usage patterns of client systems once a week.

Applicants submit that Mundy’s monitoring of usage patterns of client systems does not teach or suggest claim 1’s “receiving, at a customization system, customization information pertaining to the customized network connection application, wherein the customization is received **from a customer** of the customization system.”

Furthermore, claim 1’s customers “are configured to provide Internet access to the end-users using the customized network connection application.”<sup>2</sup> Mundy does not teach or suggest this feature of claim 1. Instead, Mundy teaches that a “dedicated server 18 provides network resources only to client systems 10 that have subscribed to the services of the dedicated server.”<sup>3</sup> Mundy’s dedicated server monitors the client systems and generates a script. Additionally, Mundy teaches that the “client systems 10 access the internet.” In other words, Mundy’s client systems are customers of the dedicated server. However, Mundy does not teach or suggest that its dedicated server receives customization information from a customer and then distributes a customized network connection application to an end-user of the customer, as recited in claim 1.

Additionally, Applicants submit that Nieminen does not teach or suggest the above-noted claim features. In contrast, Nieminen teaches customizing “client/agent software based on the

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<sup>1</sup> Mundy Fig 2, items 22 and 24, col 7, lines 41-49

<sup>2</sup> Claim 1

<sup>3</sup> Mundy Column 6, Lines 31-33

information received and/or preferences of the **user**.”<sup>4</sup> (Emphasis added.) Although Nieminen’s **user** may provide customization preferences, Nieminen’s **user** does not provide Internet access to an end user. Instead, Nieminen’s user *receives* Internet access. On this point, Nieminen states, “Users..., or more precisely, terminal means of the users are connected to an Internet Access Provider (IAP).”<sup>5</sup>

For at least these reasons, Applicants submit that the combination of Mundy and Nieminen does not teach or suggest each and every element of claim 1.

*Discussion of Claims 32, 63, and 67*

Claims 32, 63, and 67 include features similar to those noted in the discussion of claim 1. For at least the reasons noted above, Applicants submit that the combination of Mundy and Nieminen does not teach or suggest each and every element of claims 32, 63, and 67.

*Discussion of Claims 6, 7, 10-18, 22, 27, 28, 37, 38, 41-49, 53, 58, and 59*

Claims 6, 7, 10-18, 22, 27, 28, 37, 38, 41-49, 53, 58, and 59 each depend, directly or indirectly, on one of claims 1 or 32. For at least the reasons noted above, Applicants submit that the combination of Mundy and Nieminen does not teach or suggest each and every element of claims 6, 7, 10-18, 22, 27, 28, 37, 38, 41-49, 53, 58, and 59.

*Discussion of Claims 5, 8, 9, 19-21, 23-26, 29-31, 36, 39, 40, 50-52, 54-57, and 60-62*

Claims 5, 8, 9, 19-21, 23-26, 29-31, 36, 39, 40, 50-52, 54-57, and 60-62 were each rejected under some combination of Mundy, Nieminen and one or more of Reeder, MacFarlane, Corn, Sitaraman, Bleuse, Carolan, Ginzboorg, Horstmann, and Official Notice. Claims 5, 8, 9, 19-21, 23-26, 29-31, 36, 39, 40, 50-52, 54-57, and 60-62 each depend, directly or indirectly, on one of claims 1 or 32. For at least the reasons noted above, Applicants submit that the combination of Mundy and Nieminen does not teach or suggest each and every element of claims 5, 8, 9, 19-21, 23-26, 29-31, 36, 39, 40, 50-52, 54-57, or 60-62. For any combination of Mundy, Nieminen and one or more of Reeder, MacFarlane, Corn, Sitaraman, Bleuse, Carolan,

<sup>4</sup> Nieminen at column 9, lines 58 – 60.

<sup>5</sup> Nieminen at column 4, line 67 to column 5, line 2.

Ginzboorg, Horstmann, and Official Notice to teach or suggest each and every element of the noted claims, one or more of Reeder, MacFarlane, Corn, Sitaraman, Bleuse, Carolan, Ginzboorg, Horstmann, and Official Notice must teach or suggest what the combination of Mundy and Nieminen are lacking. Applicants submit that no combination of Reeder, MacFarlane, Corn, Sitaraman, Bleuse, Carolan, Ginzboorg, Horstmann, and Official Notice teach or suggest the features noted above. For at least these reasons, Applicants submit that the combination of Mundy, Nieminen and one or more of Reeder, MacFarlane, Corn, Sitaraman, Bleuse, Carolan, Ginzboorg, Horstmann, and Official Notice does not teach or suggest each and every element of claims 5, 8, 9, 19-21, 23-26, 29-31, 36, 39, 40, 50-52, 54-57, or 60-62.

Reservation of Rights

Applicants do not admit that documents cited under 35 U.S.C. §§ 102(a), 102(e), 103/102(a), or 103/102(e) are prior art, and reserves the right to swear behind them at a later date. Arguments presented to distinguish such documents should not be construed as admissions that the documents are prior art. Applicants also reserve the right to pursue canceled and originally filed claims in a continuation application. Furthermore, Applicants do not acquiesce to any of the Examiner's assertions about the claims or the cited documents and reserves the right to argue these assertions in the future.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 281-213-8980 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date June 2, 2006

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 2nd day of June, 2006.

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